

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Tribal Welfare-Khammam District –Revision Petition filed under section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 by Sri. Jupalli Dharma Rao S/o Jupalli Surya Rao R/o Sudapalli (V) Patwargudem Dammameta (M) Khammam District against the orders of Agent to Government, Khammam in CMA No:7/99 Dated:21.1.2001-Dismissed-Orders-Issued.

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**SOCIAL WELFARE (LTR) DEPARTMENT**

**G.O.Ms.No: 177**

Dated:2-09-2008

Read the following

1. From Sri. Badana Bhaskara Rao, Counsel for the Petitioner, Revision Petition dt:20-4-2002.
2. Government Memo NO:6071/LTR2/2002 1 and 2, dt:9.5.2002.
3. From Collector, Khammam RC.No:F2/CMA-7/99 dt:27.8.2006.
4. Government Telegram in 6071/LTR2/2002 dt:21.3.2007.
5. Government Memo No: 6071/LTR2/2002 dt:3.4.2007 and 7-6-2007.

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**ORDER:**

In the reference 1<sup>st</sup> read above Sri. Jupalli Dharma Rao S/o Jupalli Surya Rao has filed a Revision Petition before the Government against the orders of the Agent to Government, Khammam in CMA No:7/99 dt:21.1.2001 in respect of land admeasuring Acres 11.00 in sy.No:442 of Patwarigudem (V) Dammameta (M), of Khammam District. The main grounds of the appellant in the Revision Petition among others are as here under:

- i) The respondents 1 and 2 i.e. Agent to Government and The Special Deputy Collector (TW), Paloncha, have no jurisdiction to initiate proceedings under regulation 1/59 since the sale is affected on 20.5.1963 and the regulation 1 of 1959 extended to Telangana area, Khammam District, with effect from 1.12.1963.
- ii) The 1<sup>st</sup> respondent i.e. Agent to Government, Khammam allowed the appeal after lapse of 6 years without there being any appeal or petitions to condone the delay.
- iii) The initial order passed by the 2<sup>nd</sup> respondent i.e. Special Deputy Collector (TW) in Case No:1014/74, dt:16.10.1974 is final and principles of resjudicata will apply to the subsequent proceedings for the same survey No. and extent.

2. The brief history of the case is that Sri. Komaram Pothappa tribal through a sada sale deed dt:20.5.1963, transferred the PS land in favor of Jupalli Dharma Rao. As the transfer of land was effected prior to the implementation of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, the case was dismissed by the Special Deputy Collector in case No:1014/74 dt:16.10.1974. The case was taken up suo-motto with the particulars of village records of Patwarigudem (V) of Sathupalli(T) Khammam on enquiry and it was found that the tribal petitioner again filed another petition before Special Deputy Collector (TW) Paloncha on 23.11.1992. The case was dropped by the Special Deputy Collector (TW), in 631/DPT/92 dt: 17.1.1993 stating that the principle of resjudicata operated in the matter. Aggrieved by the orders passed by the Special Deputy Collector (TW), the tribal petitioner again filed a petition before the Agent to Government, Khammam. The village revenue records i.e. pahanies for the years 1963-64 to 1970-71 were obtained from the Mandal Revenue Officer, Dammameta. As per the pahanies it is founded that Sri. Komaram Pothurajulu is the pattedar and his name is exists in pattedar column for all the years 1963-64 to 1970-71 which is crucial period of Land Transfer Regulation provision came into force. Jupalli Dharma Rao had stated that he had purchased the suit Schedule land through an agreement which was not substantiated by corroborative evidence, and failed to file any evidence of having purchased the land from Komaram Pothurajulu and also failed to produce land revenue receipts having paid the land revenue to the Government. The Agent to Government, Khammam held that the transfer of immovable property belonging to a tribal made to Non-Tribal, is in contravention of sub section (1) of section 3 as laid down in Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 read with 1/70 after commencement of the said regulation and dismissed the appeal vide CMA No:7/99 dt:21.1.2001.

3. In the reference 2<sup>nd</sup> cited the Agent to Government, Khammam was requested to furnish the Para wise Remarks & Records in the case. The same were furnished in the reference 3<sup>rd</sup> read above. After examination of the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 16-6-2007, and was finally heard on 20-6-2007. Counsel for the Petitioner (Jupalli Dharma Rao) Non-Tribe, as well as the Respondent Komaram Joga Rao (Tribe) were present and submitted written arguments.

4. Government after careful examination of the material evidence on record and written arguments submitted by the counsel for Revision Petition and Respondent No.4, it is established that:

- i) As seen from the pahanies of crucial period i.e. 1963-64 (even in 1961-62, 1962-63) name of the non-tribal revision petitioner i.e. Jupalli Dharma Rao was neither present in pattedar column nor in occupants column. However, name of the Revision Petitioner (Jupalli Dharma Rao) was found in occupant's column in the pahani of 1977-78.
- ii) The ordinary sale agreement on white paper dated 20.5.1963 for a sale consideration of Rs.500 said to be executed by tribal Komaram Pothappa i.e. father of the Komaram Joga Rao, prior to enforcement of Regulation 1/59 to Telangana area with effect from 1.12.1963 has no validity as "The Chapter III, Section 54 of Transfer of Property Act, 1882 defined that in case of tangible immovable property of the value of hundred rupees and upwards, or in the case of a reversion or other tangible thing can be made only by a registered document." The Hon'ble High Court of Andhra Pradesh in C.R.P. No.1087/96, dt:10.8.1998 (Bangaru RamaThulisamma Vs Yada Mastan Reddy) held that unstamped and unregistered sale deeds cannot be taken as an evidence of proof according to section 17 "B" of Registration Act.
- iii) The non-tribal Revision Petitioner failed to produce the land revenue receipts having paid the LR to the Government.
- iv) The 1<sup>st</sup> respondent i.e. Agent to Government, Khammam is the Appellate Authority and can exercise suo-moto powers even after lapse of limitation and entertained the CMA No:7/99. After issuing notices, after calling for the revenue records and after conducting detailed enquiry in respect of the nature and history of the lands, orders of the Lower Court were set aside by the Agent to Government, Khammam.
- v) The principle of resjudicata in respect of the subsequent proceedings has no application. Even for argument sake without admitting the same that the principle of resjudicata is applicable, the higher authority being an appellate authority at any time can exercise his powers to rectify the injustice done by the lower authorities particularly to protect the interests of the STs in accordance with the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/59 and amended as 1/70.

5. Government, after careful examination of the case records hereby upheld the orders of the Agent to Government, Khammam in CMA No:7/99, dt:21-1-2001 holding that the transfer of land measuring Acres 11.00 situated in Sy.No:442 of Patwarigudem (V) Dammappeta (M), Khammam District, from a tribal to non-tribal is in contravention of sub-section (1) of section (3) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/1959 read with 1/70. The Revision Petition is dismissed accordingly.

6. The Collector, Khammam /Agent to Government, Khammam is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**V. NAGI REDDY,**  
**Prl. SECRETARY TO GOVERNMENT (TW)**

To  
The Collector, Khammam District.

(With RPAD of the following Records)  
 Case File No: 1014/74/SPL Containing CFP 12, NFP 2, Total 14 pages only.  
 Case File No:631/92/DPT containing CFP22 , NFP 2, Total 24 pages only.  
 The Additional Agent to Government, Khammam District  
 The Special Deputy Collector, Paloncha, Khammam District.  
 The Mandal Revenue Officer,  
     Dammameta (M), Khammam.  
 Sri. Jupalli Dharma Rao S/o Jupalli Surya Rao,  
     Patwargudem Dammameta (M), Khammam District.  
 Sri. Komaram Joga Rao, S/o Pathappa,  
     Dammameta (M), Khammam.  
 Sri. Badana Bhaskara Rao, Advocate,  
     Humayunnagar, Hyderabad.  
 Sri. P.V. Ramana, Advocate,  
     Flat No:1, Banjara Sangeet Apts, Kapadia Lane, Somajiguda, Hyd-82.  
 The P.S to M (TW & RAID)  
 SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER